# **Department of Community Planning and Economic Development - Planning Division**Zoning Code Text Amendment

**Date:** August 13, 2012

**Initiator of Amendment:** Council Member Schiff

**Date of Introduction at City Council:** June 15, 2012

Specific Site: Citywide

Ward: Citywide Neighborhood Organization: Citywide

Planning Staff and Phone: Joe Bernard, (612) 673-2422

**Intent of the Ordinance:** To allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses.

**Appropriate Section(s) of the Zoning Code:** Chapter 536 Specific Development Standards

**Background:** An ordinance amendment was introduced at the City Council on June 15, 2012, to amend Chapter 536 relating to Specific Development Standards. The purpose of the amendment is to allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses.

#### **Purpose for the Amendment:**

What is the reason for the amendment? What problem is the Amendment designed to solve? What public purpose will be served by the amendment? What problems might the amendment create?

The purpose of the amendment is to allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses. A recent proposal has identified a concern related to the administration of the window requirements found in Chapter 530, Site Plan Review, of the zoning ordinance. If site plan review is not required as part of a permit process for a proposed use, there is no available remedy for staff or the zoning administrator to offer. Only when officially part of the site plan review process can an applicant request alternative compliance to the regulations found therein.

Amending the ordinance to allow administrative reduction of the window requirement for film, video and audio production uses could potentially result in a decrease in the number of vacant commercial and industrial buildings located in commercial and industrial zoning districts.

Staff has identified a series of both practical and policy concerns related to the proposed text amendment.

- Negative impact on the pedestrian realm;
- Deterioration of the character of traditional commercial storefronts and the commercial districts in which they reside;
- If this provision allows for the closure of window openings, there is limited ability for the City to require the reopening of those windows;
- A lack of evidence to support soundproofing concerns related to the use of glass; and
- Remedies exist in the zoning ordinance to reduce the window requirement.

Policy 10.10 "Support urban design standards that emphasize a traditional urban form in commercial areas," from the Urban Design chapter of *The Minneapolis Plan for Sustainable Growth* puts clear emphasis on the importance of windows:

10.10.6 Require storefront window transparency to assure both natural surveillance and an inviting pedestrian experience.

This policy is placed specifically in a section of the comprehensive plan that addresses commercial areas. The recent text amendment that removes the need for a conditional use permit for film, video and audio production uses in commercial districts will hopefully result in more of these uses locating in our commercial areas and along our commercial corridors. However, staff does encourage that these uses meet the window requirement in the zoning ordinance and as supported by the comprehensive plan.

Staff recognizes the potential positives from making it easier for these uses to occupy what are potentially underutilized commercial storefronts throughout the city. However, concern does remain over the impact that closing window openings can have on not just the character and integrity of an existing building, but the impacts that such a building could have on a greater established commercial area. If windows are closed in an economically healthy business area, there is the potential for adverse effects to the pedestrian realm on adjacent properties.

If the city allows for the closure of window openings, there is limited opportunity for those openings to be reestablished. As film, video and audio production uses outgrow their space, unless the next tenant needs to go through more than an administrative review process with the zoning office, the only remedy to reopening the window areas would be through the willingness of an individual tenant or owner. Conditions of approval to require reopening of the windows upon vacancy of a previously used film, video and audio production use would be difficult to enforce. Therefore, staff has taken an approach to drafting language that mitigates the impact of closing window openings.

An issue raised with staff to consider for this particular use has been the ability to properly soundproof glass. After some research, staff remains unconvinced that meeting the window requirement in the zoning code is prohibitive to the establishment of a film, video and audio production use. Products and construction methods are widely available and implemented that allow for adequate soundproofing of interior spaces with the use of glass. Glass is actually particularly effective at absorption of low level frequencies, and with the right construction method and material can produce a better sound transmission class rating (a common calculation for audio transmission loss) than brick or concrete

block. Furthermore, creation of dead air spaces adjacent to windows such as hallways or accessory rooms not integral to recording and monitoring of studio equipment, is an affordable and effective way to address the issue while maintaining the window openings in a building.

As previously mentioned in this staff report, an existing remedy remains for applicants to propose a reduction to their window requirement. In cases where site plan review is required, alternative compliance can be requested when it is impractical to meet the window requirement.

All of those concerns considered, staff recognizes the need for streamlining of the approval process and the reduction in application time and cost that a change to the zoning ordinance may afford to both staff and applicants. Potential exists to make it easier for vacant commercial storefronts to be occupied by introducing flexibility to the window requirement for this particular use. Furthermore, the incidence of window reduction requests is expected to be minimal, and negative consequences are unlikely to be widely felt throughout the city.

Regardless, the attached ordinance language is intended to address staff concerns about the negative impact on the pedestrian realm, and on commercial districts generally throughout the city. Through use of a development standard, a film, video and audio production use could request a reduction in the window requirement. First, a burden of proof is placed on the applicant to show the practical need for an exception to the window requirement by supplying a report prepared by an acoustical engineer. In addition to this condition, the applicant must show that they adhere to the blank wall and building material provisions outlined in the draft text. These baseline standards are intended to protect both the integrity of commercial areas, and of traditional commercial buildings themselves. Where the closure of window openings occurs, the applicant must also propose methods to mitigate negative impacts to the location, being sensitive to the context in which the building is set. Examples of mitigation could include additional landscaping and screening, and will ultimately be approved by the zoning administrator.

#### **Timeliness:**

Is the amendment timely? Is the amendment consistent with practices in surrounding areas? Are there consequences in denying this amendment?

This amendment is part of the continual process of streamlining the zoning ordinance. The zoning ordinance was recently amended to allow film, video and audio production uses as a permitted use in zoning districts where a conditional use permit was previously required. A recent proposal has identified a concern related to the administration of the window requirements found in Chapter 530, Site Plan Review, of the zoning ordinance.

Staff performed a code search to obtain information on how other cities treat window requirements for not only film, video and audio production uses, but for administrative reduction of window requirements generally. Staff could not identify other zoning ordinances that allow for a reduction in the window requirement through an administrative process managed by the zoning administrator. However, processes such as alternative compliance through site plan review, similar to what is already instituted in Minneapolis, exist in many other zoning ordinances.

If the proposed amendment is denied, it may be more difficult for film, video and audio production uses to locate in buildings where an applicant desires a reduction in the window requirement.

# **Comprehensive Plan:**

## How will this amendment implement the Comprehensive Plan?

The following general land use policies of the *Minneapolis Plan for Sustainable Growth* apply:

- Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.
  - 1.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.
- Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.
  - 1.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.
- Policy 4.1: Support private sector growth to maintain a healthy, diverse economy.
  - 4.1.5 Continue to streamline City development review, permitting and licensing to make it easier to develop property in the City of Minneapolis.

The proposed amendment is consistent with these policies of the comprehensive plan.

## Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment, amending chapter 536 to allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses.

### **Attachments:**

1. Ordinance amending Chapter 536